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HARYANA GOVERNMENT

REVENUE AND DISASTER MANAGEMENT DEPARTMENT

Notification

The 14th September, 2018

No. 2178-R-5-2018/8500.—

1. In order to maintain transparency and consistency in de-notifying the acquired land and to regulate the procedure of such de-notification in implementing the provisions of Section 101 A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Haryana Amendment) Act, 2017, the present policy is being framed.

This Policy may be called, as 'the Policy for Return of Un-utilized Land' under the provisions of Section 101 A of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Haryana Amendment) Act, 2017.

2. This policy aims at prescribing procedure for de-notifying land, acquired under the Land Acquisition Act, 1894 becomes unviable or non-essential on such terms as may be decided by the State Government.

3. If the acquiring department is of the opinion that the land acquired under the Land Acquisition Act, 1894 (Act No. 1 of 1894) is un-viable or non-essential for the public purpose for which it has been acquired and that the land should be de-notified from acquisition, it will inform the Government about its opinion and seek approval of the Government before proceeding further in accordance with the provisions given hereafter.

4. The opinion of the acquiring department after preliminary examination shall be referred to the concerned District Level Sub-Committee, as specified in clause 5 or 6 below, not later than a month from its receipt.

5. In case, the acquired land is within jurisdiction of one district, the sub-committee referred in clause 4 will be headed by the Deputy Commissioner of the district and shall consist of the following members:

- (i) Sub Divisional Officer (Civil) of the concerned Sub-Divisions
- (ii) District Revenue Officer
- (iii) Concerned Executive Engineer PWD (B&R)
- (iv) Deputy Director, Agriculture
- (v) Senior Most Officer of the acquiring department posted in the districts, as Member Secretary.

6. In case the acquired land falls within jurisdiction of more than one district, the Committee shall be headed by the senior most Deputy Commissioner out of the Deputy Commissioners of the districts involved and shall consist of the following members:

- (i) Sub Divisional Officers of the concerned Sub-Division.
- (ii) District Revenue Officers of all the Districts.

- (iii) Concerned Executive Engineers PWD (B&R) of all the Districts.
- (iv) Deputy Directors (Agriculture) of all the Districts.
- (v) Senior Most Officer of the acquiring department posted in the districts and the senior most amongst them as Member Secretary.

7. The District Level Sub-Committee constituted under clause 5 or clause 6, as the case may be, shall while examining the 'opinion' of the acquiring department consider the following issues:

- (i) if the acquired land has become non-viable land or non-essential land.
- (ii) extent of payment of compensation, if any, to the land owner(s) on account of damages, if any, sustained by them due to acquisition of land.
- (iii) extent of compensation by providing alternate land along with payment of damages, if any, in case of part utilization of acquired land or in case of any encumbrances created on/against the acquired land or part thereof.

Explanation: -

- (1) Unviable land means the whole or part of the acquired land which has become unsuitable for utilization for the purpose for which it was acquired due to act of Nature, or increase in acquisition cost as a result of any reason including any enormous enhancement in compensation amount payable on such a land due to court orders, or material or drastic change in policy of the Government wherein such extenuating circumstances have emerged where in the opinion of the Government to be recorded with reasons, it would not be in public interest to continue with acquisition, or change in socio-economic and geographical factors in respect of the acquired land or for any other reasonable cause.
- (2) Non-essential land means the whole or part of the acquired land which cannot be practically utilized for the purpose for which it was acquired to any of the reasons enumerated in explanation (1) or better alternatives have become available for the project and it is not possible to continue with any alternative public purpose in respect of acquired land.

8. The District Level Sub-Committee, after examining the matter as per clause 7 shall give its clear recommendations and reasons as to whether the 'opinion' of the acquiring department referred to it for consideration deserves to be accepted or not.

- (i) If the District Level Sub-Committee decides to recommend acceptance of the 'opinion' of the acquiring department, it will also specify the terms and conditions, if any, emerging from its examination of the matter especially with regard to sub-clauses (ii) and (iii) of clause 7 including quantification of damages.

9. The District Level Sub-Committee will submit a report in accordance with clause 8 to the Administrative Secretary of the acquiring department who shall, after taking approval of the Government place the matter before the Ministerial Sub-Committee as specified in clause 10.

10. A Ministerial Sub-Committee shall be constituted to decide on the matter placed before it in accordance with clause 9. The Sub-Committee shall:-

- (i) consider and decide the matter in the manner provided under clause 7.
- (ii) be competent to take into consideration any other factor not specified in clause 7 in arriving at the decision as to whether de-notification of the proposed acquired land should be allowed or not.
- (iii) recommend terms and conditions as regards compensation to be paid/provided in accordance with these rules.

11. The report of the Ministerial Sub-Committee shall be put up for consideration and decision by the Cabinet at the earliest possible.

12. The Cabinet may upon consideration of the report of Ministerial Sub-Committee, allow de-notification of the acquired land.

13. In case the Cabinet allows de-notification of the acquired land, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, after publishing a notification in the Government Gazette by the concerned Administrative Secretary of the Department. He shall also pass an order in this regard and inform the original owners or their legal heirs, as the case may be, about the decision to return the land.

14. (i) The original owner or owners or their legal heirs shall return the compensation excluding solatium paid to them along with simple interest payable on deposits from the date of receipt of compensation by them till the date of return of compensation by depositing the same in the designated account as specified in the order under clause 13 before taking possession of the land.

(ii) In case(s) the original owner or owners or their legal heirs, as the case may be, fail to return the compensation in terms of sub-clause (i), the same shall be recoverable as arrears of land revenue from the returned land or from any other immovable property.

(iii) The land shall continue to vest in the Government till the return of compensation in terms of clause 14, by the landowner to the Government.

15. Any party aggrieved by the decision of the Government determining the compensation to the land owner (s) on account of damages, if any, sustained by him (them) due to acquisition of land and/or the extent of compensation of being provided alternate land [along with payment of damages, if any, as applicable], in case of part utilization of acquired land or in case of any encumbrances created on/against the acquired land or part thereof, they shall be entitled to make a claim for the same before the Land Acquisition, Rehabilitation and Resettlement Authority, as notified by the State Government under Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within a period of 90 days from the date of de-notification or from the date of applicability of the present policy.

The provisions of Limitation Act, Code of Civil Procedure and the Evidence Act shall apply to such proceedings.

16. This policy shall become effective from the date of its notification.

KESHNI ANAND ARORA,
Additional Chief Secretary and
Financial Commissioner to Government Haryana,
Revenue and Disaster Management Department.